

## Message Text

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ACTION EUR-25

INFO OCT-01 IO-14 ISO-00 EB-11 COME-00 SWF-02 AID-20

CEA-02 CIAE-00 FRB-02 INR-10 NSAE-00 RSC-01 CIEP-02

SP-03 STR-08 TRSE-00 LAB-06 SIL-01 SAM-01 OMB-01

TAR-02 L-03 DRC-01 MC-02 DODE-00 /118 W

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R 131212Z MAY 74

FM USMISSION EC BRUSSELS

TO SECSTATE WASHDC 6853

INFO USMISSION GENEVA

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E.O. 11652: N/A

TAGS: ETRD, EEC

SUBJECT: EC RECLASSIFICATION OF SEMI-CONDUCTORS

REF: (A) EC BRUSSELS 2165

(B) STATE 071744

(C) EC BRUSSELS 2111

SUMMARY: MISSION OFFICER AND MARSH (COMMERCE) MET WITH EC COMMISSION (ABBOTT) TO OBTAIN COMMISSION'S RESPONSE TO OUR OBJECTIONS REGARDING THEIR PROPOSAL FOR EX-OUT UNDER CXT 85.21D. COMMISSION POSITION WAS UNYIELDING ON EXCLUSION OF CHIPS FROM EX-OUT. ABBOTT ALSO SUGGESTED THAT FURTHER U.S. OBJECTION WOULD DELAY IMPLEMENTATION OF 9 PERCENT DUTY FOR WAFERS, WHICH OTHERWISE WILL PROBABLY TAKE EFFECT JULY 1. END SUMMARY.

1. ON MAY 9, HOLMES OF USEC AND BENNETT MARSH OF COMMERCE DISCUSSED COMMISSION PROPOSAL FOR SEMI-CONDUCTOR SUBHEADING WITH JIM VAN TASSEL OF TEXAS INSTRUMENTS-EUROPE (TI) AND DON HOLLEY, TI'S LOCAL ATTORNEY, TO CLARIFY COMPANY'S POSITION REGARDING PROBLEMS CREATED

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BY EC PROPOSAL (REF. B). EXCLUSION OF CHIPS REMAINS

COMPANY'S MAJOR CONCERN, ALTHOUGH TI DOES NOT WISH TO SACRIFICE POSSIBILITY OF JULY 1 RESTORATION OF 9 PERCENT RATE ON WAFERS FOR SAKE OF BROADER COVERAGE (REF. C, PARA. 3). THERE WAS, HOWEVER, LESS CONCERN VOICED RE ISSUES ARISING FROM DRAFT EXPLANATORY NOTE, I.E. SIZE OF WAFERS, VISIBILITY OF GRID, AND CHEMICALS USED. QUESTION OF CUSTOMS TREATMENT OF WAFERS THAT HAVE BEEN HALVED OR QUARTERED IS OF GREATER IMPORTANCE TO TI THAN THESE ISSUES. TI REPRESENTATIVES AGREED THAT U.S. MIGHT WISH TO ASK EC TO OMIT ANY REFERENCE TO SIZE OR CHEMICAL COMPOSITION RATHER THAN HOLD OUT FOR MORE INCLUSIVE DEFINITIONS. THIS WOULD DEPEND UPON WHETHER EC INTENDED EXPLANATORY NOTE TO BE FURTHER LIMITATION ON COVERAGE OF HEADING OR TO BE PURELY "EXPLANATORY".

2. AT MEETING FOLLOWING DAY, ABBOTT, IN SECTION HANDLING GATT AND RELATED MATTERS FOR THE COMMISSION, EXPLAINED BOTH ORALLY AND BY INFORMAL PAPER (COPIES BEING POUCHED TO STATE AND COMMERCE), LOGIC BEHIND EC EXCLUSION OF CHIPS. HE RETURNED TO PREVIOUS ARGUMENTATION THAT WAFERS AND CHIPS HAD BEEN SUBJECT TO DISPARATE EC MEMBER STATE CUSTOMS TREATMENT PRIOR TO 1972. THE EC CONSIDERS THAT THE VALUE OF TRADE IN WAFERS ALONE EQUALS THE "DE FACTO" COVERAGE OF THE CONCESSION WE WISH RESTORED IN THE LIGHT OF INCONSISTENT MEMBER-COUNTRY TARIFF TREATMENT. IN OTHER WORDS, THE EXCLUSION OF CHIPS IN THE EX-OUT YIELDS A "BALANCE" BETWEEN WHAT THE U.S. IS OWED AND WHAT IS BEING OFFERED. WE RESPONDED BY POINTING OUT THAT ITEMS OTHER THAN WAFERS AND CHIPS MIGHT ALSO BE DENIED CONCESSIONARY TREATMENT BECAUSE OF THE RECLASSIFICATION, BUT WE HAD CHOSEN TO ASK FOR RESTORATION OF CONCESSION ONLY FOR THE MAJOR TRADE ITEMS PREVIOUSLY CLASSIFIED UNDER 85.21E AND NOW UNDER 85.21D.

3. THE FRENCH TEXT OF A NEW EXPLANATORY NOTE WAS ALSO SHOWN TO US WHICH USES (TEXT FOLLOWS BY SEPTTEL) A WIDER RANGE OF SIZES TO DESCRIBE THE WAFERS LIMITED OFFICIAL USE

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(2.5 TO 10 CM), AND USES LANGUAGE MORE CLEARLY INDICATIVE OF THE NOTE'S DESCRIPTIVE AND ILLUSTRATIVE, RATHER THAN RESTRICTIVE, INTENT. ABBOTT POINTED OUT THAT THE EXPLANATORY NOTE HAD NO "LEGAL FORCE" AND COULD BE MODIFIED (WITH NOMENCLATURE COMMITTEE APPROVAL) IF IT CAUSED DIFFICULTIES. HE FELT IT LIKELY THAT HALVED OR QUARTERED WAFERS WOULD BE CONSIDERED BY CUSTOMS OFFICIALS AS WAFERS, NOT CHIPS,

BUT THE LANGUAGE IS AMBIGUOUS ON THIS POINT.

4. ABBOTT STATED THAT THE PROPOSED SUBHEADING AND THE REVISED EXPLANATORY NOTE HAD BEEN APPROVED BY THE "GROUPE MIXTE" (CUSTOMS EXPERTS) AND THE NOMENCLATURE COMMITTEE. IF THE U.S. DOES NOT OBJECT TO THESE TEXTS, THEY WOULD BE PUT BEFORE THE EC COMMISSIONERS AS EARLY AS THIS WEEK. THE NEXT STEP WOULD BE REFERENCE TO THE COUNCIL, WHICH WOULD REFER THE PROPOSAL TO ITS "GROUP ON ECONOMIC QUESTIONS", WHICH IS SCHEDULED TO MEET MAY 27. IF APPROVED BY THE GROUP, THE NEW SUBHEADING COULD BE APPROVED BY THE COUNCIL AS A WHOLE WITHOUT DISCUSSION, IN TIME FOR IMPLEMENTATION JULY 1. ABBOTT HASTENED TO ADD THAT U.S. OBJECTION TO THIS SUBHEADING AND EXPLANATORY NOTE WOULD CERTAINLY MEAN NO REVISION OF CXT 85.21D ON JULY 1, AND THE LIKELIHOOD THAT MEMBER COUNTRIES (UNNAMED) WHO WANTED A DIFFERENT KIND OF COMPROMISE, I.E. A RATE OF 13 PERCENT FOR WAFERS, MIGHT GAIN THE UPPER HAND IN SUBSEQUENT INTERNAL CONSIDERATION.

5. MISSION REQUESTS FURTHER INSTRUCTIONS AS SOON AS POSSIBLE. GREENWALD

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## Message Attributes

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